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**GROUP 3700**

**To: Primary Examiner Glenn Richman Fax: 703-872-9302**  
Group Art Unit 3764, United States  
Patent and Trademark Office

**From: Michael J. Shea Date: February 15, 2003**

**Re: US Application No. 09/541,986 Pages: 7**

**CC:**

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Michael J. SHEA

Serial No. 09/541,986

Group: 3764

Filed: April 3, 2000

Examiner: G. Richman

For: EXERCISE APPARATUS

Dckt. No. EX-2DC4

\* \* \* \* \*

February 15, 2003

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**REQUEST FOR CONSIDERATION OF AMENDMENT FILED ON JANUARY 6, 2003**

Applicant filed an Amendment on January 6, 2003 responsive to the office action dated September 27, 2002. This office action was non-final as evidenced by the Office Action Summary (see attached copy of office action). Accordingly, the Advisory Action mailed February 11, 2003 treating the January 6th Amendment as a response to a final office action is improper and must be withdrawn. Applicant respectfully requests prompt and favorable consideration of the Amendment filed on January 6, 2003.

Respectfully submitted,

By: Michael J. SheaMichael J. Shea  
Reg. No. 34,725MJS:mjs  
1726 Creek Crossing Road  
Vienna, VA 22182**Best Available Copy**

## CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax. No. (703) 872-9302 on this the 15th day of February in the year 2003.

Michael J. Shea, Reg. No. 34,725

Michael J. Shea

Received from &lt;555 5555&gt; at 2/15/03 1:02:26 PM [Eastern Standard Time]

#19  
Reg for  
Reconsideration  
S. Bryce  
2/22/03



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,986	04/03/2000	Shea Michael	EX-2DC4	4687

7590

09/27/2002

Michael J Shea  
1726 Creek Crossing Road  
Vienna, VA 22182

EXAMINER

RICHMAN, GLENN E

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 09/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

COPY

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**Office Action Summary**Application No.  
**09/541,986**Applicant(s)  
**Shao**Examiner  
**Glenn Richman**Art Unit  
**3764**

.. The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Apr 15, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-22 and 25-38 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-22 and 25-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No.(s). 15
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO 102)
- 6) ☐ Other: \_\_\_\_\_

Application/Control Number 09/541,286

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Art Unit: 3764

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20-22, and 25-38 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Melton et al (see col. 5, lines 10-20)

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is (703)308-3170. The examiner can normally be reached Tuesday through Thursday from 7:30 AM to 6:00 PM Eastern time. The facsimile number for Art Unit 3764 is (703)308-0758. The facsimile number for submitting formal papers to Technology Center 3700 is (703)305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 3700 receptionist whose telephone number is (703)308-0858 or to Customer Service at (703)306-6789.

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gr  
May 28, 2002

Glenn Richman  
Primary Examiner  
AU 3764

<b>Notice of References Cited</b>	Application/Control No. 09/541,986	Applicant(s)/Patent Under Reexam Shen	
	Examiner Glenn Richman	Art Unit 3764	Page 1 of 1

## U.S. PATENT DOCUMENTS

	Document Number Country Code-Number-Kind Code	Date MM-YYYY <sup>1</sup>	Name	Classification <sup>2</sup>	
A	4,542,897	9/1985	Melton et al	463	7
B					
C					
D					
E					
F					
G					
H					
I					
J					
K					
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M					

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## FOREIGN PATENT DOCUMENTS

	Document Number Country Code-Number-Kind Code	Date MM-YYYY <sup>1</sup>	Country	Name	Classification <sup>2</sup>
N					
O					
P					
Q					
R					
S					
T					

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## NON-PATENT DOCUMENTS

	Include, as applicable: Author, Title, Date, Publisher, Edition or Volume, Pertinent Pages
<input checked="" type="checkbox"/> u	24 Hour Fitness Partners with Netpulse, Press Release from Internet, page 1, 3/1998
<input checked="" type="checkbox"/> v	Netpulse Makes Working Out More Than A Calorie Burning Session, page 1-2, 3/1998
<input checked="" type="checkbox"/> w	Ad Resource, Netpulse, page 1
<input type="checkbox"/> x	

<sup>1</sup> A copy of this reference is not being furnished with this Office action. See MPEP § 707.05(a).<sup>2</sup> Dates in MM-YYYY format are publication dates.<sup>3</sup> Classifications may be U.S. or foreign.

